

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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UNITED STATES OF AMERICA,

Plaintiff,

v.

BRADFORD METCALF and  
RANDY GRAHAM

Defendants.

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Case No. 1:98-CR-54-02

1:98-CR-54-03

Hon. Richard Alan Enslen

**ORDER**

Defendant Randy Graham has moved under Federal Rule of Criminal Procedure 41(g) for return of personal property seized from him in connection with Plaintiff United States of America's investigation and prosecution of him. This Court previously determined based on filings of Plaintiff and Defendant Bradford Metcalf that Plaintiff should return certain property to a custodian of Bradford Metcalf and the non-returned property should be disposed of in accordance with Plaintiff's usual practices. At that time, Defendant Randy Graham had not moved for return of his property. Upon consideration of the present Motion, the Court finds for the reasons stated earlier that Defendant Graham should be treated identically to Defendant Metcalf. That is, the evidence seized from him except for firearms, ammunition, silencers, explosives or other property which is contraband *per se*<sup>1</sup> shall be made available for return to a duly appointed custodian within 30 days of this Order. The Court will also make a provision in its Order to resolve any disagreement that may arise between duly appointed custodians as to the disposition of returned property.

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<sup>1</sup>Defendant Graham recognizes that he is not entitled to return of certain contraband property in that he does not seek return of marijuana seeds, marijuana and contraband paraphernalia. (Dkt. No. 414 at 2.)

**THEREFORE, IT IS HEREBY ORDERED** that Defendant Randy Graham's Motion for Return of Property (Dkt. No. 414) is **GRANTED IN PART AND DENIED IN PART**.

**IT IS FURTHER ORDERED** that this Order supercedes and replaces the Order of July 21, 2005 (Dkt. No. 413).

**IT IS FURTHER ORDERED** that Plaintiff United States of America shall make available to duly-appointed custodians of Defendant Graham and Defendant Metcalf within 30 days all of the evidence seized except for firearms, ammunition, silencers, explosives or other property which is contraband *per se* for disposition to them.

**IT IS FURTHER ORDERED** that Plaintiff shall distribute to the respective custodians the property belonging to the respective Defendants if return is sought within the 30-day period. Should there arise some disagreement as to the ownership of property to be returned, Plaintiff shall retain the disputed property until its ownership is resolved by the Court.

**IT IS FURTHER ORDERED** that Plaintiff is **GRANTED** authority to destroy any property not returned to Defendants' custodians after the passage of the 30-day period except for property as to which ownership is disputed.

**IT IS FURTHER ORDERED** that Plaintiff is **GRANTED** authority to immediately dispose of and not return all firearms, ammunition, silencers, explosives or other property which is contraband *per se*.

DATED in Kalamazoo, MI:  
August 11, 2005

/s/ Richard Alan Enslen  
RICHARD ALAN ENSLEN  
UNITED STATES DISTRICT JUDGE